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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/609,316	06/30/2000	Michael L. Asmussen	5216	2925
26291	7590	08/24/2005	EXAMINER	
MOSER, PATTERSON & SHERIDAN L.L.P. 595 SHREWSBURY AVE, STE 100 FIRST FLOOR SHREWSBURY, NJ 07702			KOENIG, ANDREW Y	
			ART UNIT	PAPER NUMBER
			2611	

DATE MAILED: 08/24/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/609,316

Applicant(s)

ASMUSSEN, MICHAEL L.

Examiner

Andrew Y. Koenig

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 10 June 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 106-118 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 106-118 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 106-118 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 103

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 106-118 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent 5,990,927 to Hendricks et al. (hereafter Hendricks) in view of U.S. Patent 5,867,223 to Schindler et al. (Schindler) and U.S. Patent 5,062,136 to Gattis et al. (Gattis).

Regarding claim 106, Hendricks teaches a level D upgrade module, as shown in figure 12 b, which is an apparatus for upgrading a capability of a set top terminal (STT) (col. 15-16, ll. 58-17, col. 26, ll. 9-16). Hendricks teaches a STT receiving a data stream including a plurality of compressed program signals, decompressing the program signal, and providing a corresponding output signal adapted for use by a display device (col. 10, ll. 48-58). Hendricks teaches a STT interface for communicating between the upgrade and the STT (fig. 5b, 662, col. 15-16, ll. 58-17, col. 26, ll. 9-16). Hendricks teaches an upgrade decryption module (fig. 12B, label 140), which by definition for

decrypting an encrypted program signal to and providing a compressed program signal, which is next logical element in the system (col. 27, ll. 45-65).

Hendricks is silent on an upgrade encryption module for encrypting an upstream transmission signal comprising at least one of audio and video data.

In analogous art, Schindler teaches an upgrade module for transmitting an upstream transmission signal comprising audio and video data, in that Schindler teaches upgrade card for providing video conferencing via a public switched telephone network (col. 19-20, ll. 65-15, see figure 15).

One of ordinary skill in the art would recognize the benefit of using an upgrade module for video conferencing in order to enhance the functionality of the device while enabling additional services to be provided to the user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks by implementing an upgrade module for transmitting an upstream transmission signal comprising audio and video data as taught by Schindler in order to enhance the functionality of the device while enabling additional services to be provided to the user.

Further, the combination of Hendricks and Schindler is silent on encrypting the transmission signal.

In analogous art, Gattis teaches encrypting the transmission signal, in that Gattis teaches encryptors and decryptors (fig. 1, label 32A, 36A, fig. 2, labels 32A, 36B) for the benefit of preventing unauthorized access to signals being transmitted (col. 4, ll. 25-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks and Schindler by encrypting the transmission signal as taught by Gattis in order to prevent unauthorized access to signals being transmitted (Gattis: col. 4, ll. 27-28).

Regarding claim 107, Hendricks teaches a STT including a first decryption module for decrypting a program signal according to a first encryption format (fig. 4, label 600) (col. 14, ll. 36-44), and an upgrade decryption module decrypting a program signal encrypted according to a second encryption format (fig. 12b, label 140, col. 27, ll. 47-65).

Regarding claim 108, Hendricks teaches a first encryption format comprising a video encryption format (fig. 4, label 600, col. 14, ll. 36-44), and a second format comprising an audio encryption format (fig. 12b, label 140, col. 27, ll. 47-65, col. 39, ll. 48-51).

Regarding claim 109, Hendricks teaches an upgrade tuner (fig. 12b, label 134), for selecting an audio stream (col. 39, ll. 35-47), a demultiplexer (fig. 12b, 138) for coupling an encrypted audio stream to the upgrade decryption module, which is shown in figure 12b.

Regarding claim 110, Hendricks teaches an audio decompression element (fig. 12b, label 142), for decompressing the compressed program signal provided by the decryption module, as shown in the logical arrangement of elements in figure 12b (col. 27, ll. 41-50).

Regarding claim 111, Hendricks teaches a tuner (fig. 12b, label 134), for selecting an audio stream (col. 39, ll. 35-47), a demodulator (fig. 12b, label 136) for demodulating the data stream that inherently, by definition, produces a demodulated data stream, a demultiplexer (fig. 12b, label 138), for extracting an encrypted data stream for the demodulated data stream (as shown by the logical order elements), and the encrypted data stream coupled to said upgrade decryption module, as shown in figure 12b, see also col. 27, ll. 45-60.

Regarding claim 112, Hendricks teaches a first processor (fig. 4, label 602) for controlling circuitry (col. 27, ll. 51-55). Hendricks teaches an upgrade processor fig. 12b, label 132) communicating with the first processor via said STT interface, wherein the upgrade processor controls the upgrade decryption module, which clearly controls the demultiplexer and decryptor as shown in figure 12b.

Regarding claim 113, Hendricks teaches providing user interface menu via the STT (fig. 21, col. 40, ll. 27-32).

Regarding claim 114, Hendricks teaches the upgrade apparatus providing user interface menu imagery via a visual display to the user (col. 27-28, ll. 60-9).

Regarding claim 115, Hendricks teaches a STT with a first circuitry receiving a data stream including a plurality of compressed program signals, decompressing the program signal, and providing a corresponding output signal adapted for use by a display device (col. 10, ll. 48-58). Hendricks teaches an upgrade circuitry (fig. 12B, label 130), by providing a tuner (fig. 12b, label 134), decryptor (fig. 12b, label 140), and a decompressor (fig. 12b, label 142). Hendricks teaches a STT interface for communicating between the upgrade and the STT (fig. 5b, 662, col. 15-16, ll. 58-17, col. 26, ll. 9-16).

Hendricks is silent on an upgrade encryption encryptor for encrypting an upstream transmission signal comprising at least one of audio and video data.

In analogous art, Schindler teaches an upgrade module for transmitting an upstream transmission signal comprising audio and video data, in that Schindler teaches upgrade card for providing video conferencing via a public switched telephone network (col. 19-20, ll. 65-15, see figure 15).

One of ordinary skill in the art would recognize the benefit of using an upgrade module for video conferencing in order to enhance the functionality of the device while enabling additional services to be provided to the user.

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks by implementing an upgrade module

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for transmitting an upstream transmission signal comprising audio and video data as taught by Schindler in order to enhance the functionality of the device while enabling additional services to be provided to the user.

Further, the combination of Hendricks and Schindler is silent on encrypting the transmission signal.

In analogous art, Gattis teaches encrypting the transmission signal, in that Gattis teaches encryptors and decryptors (fig. 1, label 32A, 36A, fig. 2, labels 32A, 36B) for the benefit of preventing unauthorized access to signals being transmitted (col. 4, ll. 25-41).

Therefore, it would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Hendricks and Schindler by encrypting the transmission signal as taught by Gattis in order to prevent unauthorized access to signals being transmitted (Gattis: col. 4, ll. 27-28).

Regarding claim 116, Hendricks teaches a STT including a first decryption module for decrypting a program signal according to a first encryption format (fig. 4, label 600) (col. 14, ll. 36-44), and an upgrade decryption module decrypting a program signal encrypted according to a second encryption format (fig. 12b, label 140, col. 27, ll. 47-65).

Regarding claim 117, Hendricks teaches a first encryption format comprising a video encryption format (fig. 4, label 600, col. 14, ll. 36-44), and a second format

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comprising an audio encryption format (fig. 12b, label 140, col. 27, ll. 47-65, col. 39, ll. 48-51).

Regarding claim 118, Hendricks teaches an upgrade tuner (fig. 12b, label 134), for selecting an audio stream (col. 39, ll. 35-47), a demultiplexer (fig. 12b, 138) for coupling an encrypted audio stream to the upgrade decryption module, which is shown in figure 12b.

Conclusion

4. Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the date of this final action.

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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Andrew Y. Koenig whose telephone number is (571) 272-7296. The examiner can normally be reached on M-Th (7:30 - 6:30).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Christopher Grant can be reached on (571) 272-7294. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

ayk



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PRIMARY EXAMINER